

1 SENATE BILL 744

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

4 Linda M. Lopez

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10 AN ACT

11 RELATING TO COUNTY CORRECTIONS; ADDRESSING THE PLACEMENT OF
12 MUNICIPAL INMATES IN COUNTY DETENTION FACILITIES; PROVIDING FOR
13 REDISTRIBUTION OF THE LOCAL GOVERNMENT CORRECTIONS FUND UNDER
14 CERTAIN CIRCUMSTANCES; PROVIDING FOR A FEE FOR PLACEMENT OF
15 MUNICIPAL INMATES IN COUNTY DETENTION FACILITIES UNDER CERTAIN
16 CIRCUMSTANCES.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 Section 1. Section 33-3-23 NMSA 1978 (being Laws 1959,
20 Chapter 104, Section 1, as amended) is amended to read:

21 "33-3-23. CONFINEMENT OF PRISONERS COMMITTED BY AN INDIAN
22 GOVERNMENT OR BY A MUNICIPALITY--COST.--

23 A. Subject to the payment by [~~the~~] an Indian tribe,
24 [~~band~~] nation or pueblo in New Mexico or the United States of
25 [~~the fees established for the jail~~] a fee to a county pursuant

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1 to an agreement with the county, or subject to the payment of a
2 fee by a municipality to a county pursuant to Section 3 of this
3 2007 act or to an agreement with the county, the sheriff of
4 each county [~~his~~] or the sheriff's deputy, the jailer, the jail
5 administrator as defined in Section 4-44-19 NMSA 1978 or an
6 independent contractor operating the jail is required to
7 receive [~~any~~] a person committed to [~~his~~] custody in conformity
8 with a regular process issued by or under the authority of
9 [~~any~~] the Indian tribe, [~~band~~] nation or pueblo [~~in New~~
10 ~~Mexico~~], the municipality or the United States and is further
11 required to retain custody until [~~such~~] the person is placed at
12 liberty according to the laws of the United States, New Mexico
13 or [~~of~~] the Indian tribe, [~~band~~] nation or pueblo.

14 B. No sheriff, jail administrator or independent
15 contractor operating a jail shall be required to receive [~~any~~
16 ~~such committed person~~] a person committed pursuant to
17 Subsection A of this section if to do so would exceed the
18 capacity of the [~~facility~~] jail or if the Indian tribe, nation
19 or pueblo, the United States or the municipality refuses to pay
20 the applicable fee. The sheriff, jail administrator or
21 independent contractor may also return any prisoner received by
22 [~~him~~] the sheriff, jail administrator or independent contractor
23 under this section to the committing authority if the capacity
24 of the [~~facility~~] jail is exceeded."

25 Section 2. Section 33-3-25 NMSA 1978 (being Laws 1983,

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1 Chapter 134, Section 1, as amended) is amended to read:

2 "33-3-25. LOCAL GOVERNMENT CORRECTIONS FUND CREATED--
3 ADMINISTRATION--DISTRIBUTION.--

4 A. There is created in the state treasury [a] the
5 "local government corrections fund" to be administered by the
6 administrative office of the courts.

7 B. All balances in the local government corrections
8 fund are appropriated to the administrative office of the
9 courts for payment to counties and municipalities in counties
10 with a metropolitan court for use by counties and those
11 municipalities for county or municipal jailer or juvenile
12 detention officer training; for the construction planning,
13 construction, maintenance and operation of the county detention
14 facility, municipal jail or juvenile detention facility; for
15 paying the cost of housing county or municipal prisoners or
16 juveniles in any detention facility in the state; for
17 alternatives to incarceration; or for complying with match or
18 contribution requirements for the receipt of federal funds
19 relating to detention facilities, jails or juvenile detention
20 facilities. Payments shall be made quarterly upon
21 certification by the magistrate court or metropolitan court and
22 the motor vehicle division of the taxation and revenue
23 department of eligible amounts as provided in Subsection C of
24 this section.

25 C. Each county shall be eligible for a payment in

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1 an amount equal to the costs and fees collected by a magistrate
2 court or a metropolitan court and the motor vehicle division
3 pursuant to offenses committed within the county and deposited
4 in the local government corrections fund, provided that, in a
5 county with a metropolitan court, the county shall be eligible
6 for a payment in an amount equal to costs and fees collected
7 pursuant to offenses committed within the boundaries of the
8 unincorporated areas of the county, and a municipality in that
9 county, provided that it contributes funds in an amount equal
10 to a minimum of one-half of the operating costs of the county
11 detention facility, shall be eligible for a payment in an
12 amount equal to the costs collected pursuant to offenses
13 committed within the boundaries of the municipality. If the
14 municipality in that county does not contribute funds in an
15 amount equal to a minimum of one-half of the operating costs of
16 the county detention facility, the county shall receive the
17 funds otherwise available to the municipality, unless the
18 municipality operates or contracts for the operation of a
19 municipal jail or can demonstrate that it is planning the
20 construction of or is constructing a municipal jail.

21 D. Payments from the local government corrections
22 fund shall be made upon vouchers issued and signed by the
23 director of the administrative office of the courts upon
24 warrants drawn by the secretary of finance and administration.

25 E. All money received by a county or a municipality

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1 pursuant to this section shall be deposited in a special fund
2 in the county or municipal treasury and shall be used solely
3 for:

4 (1) county or municipal jailer or juvenile
5 detention officer training;

6 (2) the construction planning, construction,
7 maintenance and operation of the county detention facility,
8 municipal jail or juvenile detention facility;

9 (3) paying the cost of housing county or
10 municipal prisoners or juveniles in any detention facility in
11 the state;

12 (4) alternatives to incarceration; or

13 (5) complying with match or contribution
14 requirements for the receipt of federal funds relating to
15 detention facilities, jails or juvenile detention facilities."

16 Section 3. A new section of Chapter 33, Article 3 NMSA
17 1978 is enacted to read:

18 "[NEW MATERIAL] COUNTY DETENTION FACILITY FEES--HOUSING OF
19 MUNICIPAL INMATES.--

20 A. If a municipality within a class A county with a
21 population of five hundred thousand or more persons does not
22 operate or contract for the operation of a municipal jail and
23 does not contribute funds to the county in an amount that is
24 equal to a minimum of one-half of the operating costs of the
25 county detention facility, the municipality shall pay a fee to
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1 the board of county commissioners for each inmate housed in the
2 county detention facility who is charged with a municipal
3 offense or was arrested by a municipal police officer. The fee
4 shall be established by the board of county commissioners and
5 approved by the local government division of the department of
6 finance and administration.

7 B. In addition to the fee prescribed in Subsection
8 A of this section, a municipality shall be responsible for the
9 costs of municipal inmate services, including:

- 10 (1) medical services, treatment or care;
- 11 (2) prescription drug services;
- 12 (3) dental services;
- 13 (4) mental health services, treatment or care;
- 14 (5) vision treatment or care;
- 15 (6) ambulatory services; and
- 16 (7) transportation services.

17 C. A municipality shall be responsible for the fee
18 and costs described in Subsections A and B of this section from
19 the date a municipal inmate is booked into the county detention
20 facility through the date the inmate is released from that
21 facility.

22 D. Upon the receipt of a bill from the county for
23 the fee and costs imposed pursuant to this section, the
24 municipality shall process the bill as a preferential bill of
25 expense and pay it in full before the municipality pays any

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1 other bill, fee or salary it may owe."

2 Section 4. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2007.

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